



FEDERAL ELECTION COMMISSION
Washington, DC 20463

July 13, 2017

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Peter Waldron
National Field Coordinator
Bachmann for President
c/o Vertical Horizon One, Inc.
1334 Tampa Road #195
Palm Harbor, FL 34683

RE: MUR 6724

Dear Mr. Waldron:

This is in reference to the complaint you filed with the Federal Election Commission on February 21, 2013, alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Commission found that there was reason to believe that Bachmann for President and Christopher Marston in his official capacity as treasurer violated 52 U.S.C. §§ 30104(b)(5), 30116(f), and 30104(b)(2)(D) by failing to properly disclose its disbursements and accepting and failing to report excessive in-kind contributions. The Commission also found reason to believe that Many Individual Conservatives Helping Elect Leaders Everywhere PAC and Christopher Marston in his official capacity as treasurer violated 52 U.S.C. §§ 30104(b)(5) and 30116(a)(2)(A) by failing to properly disclose its disbursements and making excessive in-kind contributions. On July 5, 2017, conciliation agreements signed by these respondents were accepted by the Commission. The Commission also found no reason to believe Guy Short violated 52 U.S.C. § 30116(f), no reason to believe Kent Sorenson violated 52 U.S.C. § 30104(b)(5), and no reason to believe Nancy Watkins in her individual capacity violated 52 U.S.C. § 30104(b)(5). The Commission further took no action against C&M Strategies and closed the file as to Short, Sorenson, Watkins, and C&M Strategies.

Documents related to the case will be placed on the public record within 30 days. See Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016), effective September 1, 2016. Copies of the agreements, as well as Factual and Legal Analyses more fully explaining the Commission's decision, are enclosed for your information.

Sincerely,

Enclosure(s)
Conciliation Agreements
Factual and Legal Analyses

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 6724
Many Individual Conservatives Helping)
Elect Leaders Everywhere (MichelePAC))
and Christopher M. Marston in his)
official capacity as treasurer)

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Peter Waldron. The Federal Election Commission ("Commission") found reason to believe that Many Individual Conservatives Helping Elect Leaders Everywhere and Christopher M. Marston in his official capacity as treasurer ("Respondent") violated 52 U.S.C. § 30104(b)(5)(A) by failing to properly disclose disbursements and 52 U.S.C. § 30116(a)(2)(A) by making excessive in-kind contributions.

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The Commission determined as follows:

1. MichelePAC is Representative Michele Bachmann's leadership PAC.

2. At the time of the events at issue in this matter, Christopher M. Marston was not the Respondent's Treasurer. Barry Arrington, of Barry Arrington, LLC, was the Respondent's Treasurer during the relevant time period.

3. In early 2011, the Bachmann campaign retained the services of Kent Sorenson, an Iowa State Senator, as a consultant. Believing that state law prohibited Sorenson from accepting payment directly from the Respondent, the parties agreed that the Respondent would route payments to Sorenson through an existing contract with another political consultant (C&M Strategies, Inc.) in order to avoid disclosure of Sorenson as the ultimate payee.

4. Sorenson did not take direction from or perform any work for C&M Strategies. C&M Strategies did not exercise any independent control over the funds it received from the Respondent, which were earmarked for Sorenson.

5. During May, the Respondent disclosed paying \$24,000 to C&M Strategies who then acted as a conduit, forwarding \$8,275 of that amount to Sorenson (through his solely owned company) on May 16. Therefore, the Commission found reason to believe that Respondent failed to properly disclose \$8,275 in disbursements to Sorenson.

6. Additionally, Bachmann for President ("BFP"), Bachmann's authorized committee during her 2012 Presidential campaign, was under contract to pay consulting fees of \$22,500 per month to C&M Strategies from mid-2011 through the end of the year. Despite the substantial evidence that C&M Strategies (through its principal, Guy Short) worked full time for BFP during November and December 2011 in anticipation of the Iowa Caucus, BFP did not report paying the \$22,500 monthly consulting fees for either month. Instead, the Respondent — which was under the control of Guy Short, principal of C&M Strategies — paid BFP's obligations to C&M Strategies during this time.

7. The Respondent paid \$45,000 to C&M Strategies for services performed for BFP during November and December 2011. The Commission found reason to believe that these payments resulted in the Respondent making excessive in-kind contributions to BFP in the amount of \$35,000: \$45,000 minus the \$5,000 the Act permitted the Respondent to contribute to BFP in each of calendar years 2011 and 2012.

V. The Commission found reason to believe that the Respondent violated 52 U.S.C. § 30104(b)(5)(A) by failing to properly disclose its disbursements and 52 U.S.C. § 30116(a)(2)(A) by making excessive in-kind contributions. Respondent contends that any such violations were not knowing and willful.

VI. 1. Without admitting liability in this matter or with respect to any other proceeding, but in order to resolve this matter, Respondent will pay a civil penalty to the Federal Election Commission in the amount of \$17,500, pursuant to 52 U.S.C. § 30109(a)(5)(A).

2. Respondent will comply with 52 U.S.C. § 30104(b)(5)(A) and 52 U.S.C. § 30116(a)(2)(A).

3. Respondent will amend its June 2011 Monthly, December 2011 Monthly, and 2011 Year-End Reports within 30 days.

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

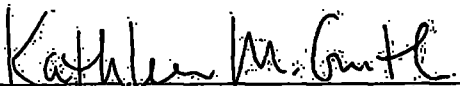
IX. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

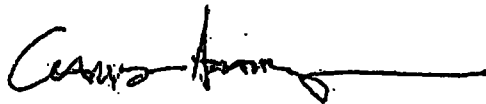
Lisa J. Stevenson
Acting General Counsel

BY:


Kathleen M. Guith
Associate General Counsel

7-27-17
Date

FOR THE RESPONDENT:



Christopher M. Marston
Treasurer, MichelePAC

June 5, 2017

Date

By Chris Ashby, Esq.,
Counsel of Record

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 6724
Bachmann for President and)
Christopher M. Marston in his)
official capacity as treasurer)

CONCILIATION AGREEMENT

THIS MATTER WAS INITIATED BY A SIGNED, SWORN, AND NOTARIZED COMPLAINT BY PETER WALDRON, AND BY A REFERRAL FROM THE OFFICE OF CONGRESSIONAL ETHICS TO THE FEDERAL ELECTION COMMISSION ("Commission"). The Commission found reason to believe that Bachmann for President and Christopher M. Marston in his official capacity as treasurer ("Respondent") violated 52 U.S.C. § 30104(b)(5)(A) by failing to properly disclose disbursements, 52 U.S.C. § 30116(f) by knowingly accepting excessive in-kind contributions, and 52 U.S.C. § 30104(b)(2)(D) by failing to properly disclose in-kind contributions.

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The Commission determined as follows:

1. Bachmann for President was Representative Michele Bachmann's authorized committee during her 2012 presidential campaign.
2. At the time of the events at issue in this matter, Christopher M. Marston was not the Respondent's Treasurer. Nancy H. Watkins, of Robert Watkins & Co., was the Respondent's Treasurer during the relevant time period.
3. In early 2011, the Respondent offered payment to Kent Sorenson, an Iowa State Senator, to support Bachmann's presidential campaign. Believing that state law prohibited Sorenson from accepting payment directly from the Respondent, the parties agreed that the Respondent would route payments to Sorenson through an existing contract with another political consultant (C&M Strategies, Inc.) in order to avoid disclosure of Sorenson as the ultimate payee.
4. Sorenson did not take direction from or perform any work for C&M Strategies. C&M Strategies did not exercise any independent control over the funds it received from the Respondent, which were earmarked for Sorenson.
5. The Respondent paid Sorenson \$7,500 per month for four and one-half months (for a total of \$33,750) using C&M Strategies merely as a conduit for payment. The Respondent filed its 2011 October Quarterly and 2011 Year-End Reports with the Commission stating that C&M Strategies, and not Sorenson, was the recipient of these payments. Therefore, the Commission found reason to believe that Committee failed to properly disclose \$33,750 in disbursements to Sorenson.
6. The Respondent also was under contract to pay consulting fees of \$22,500 per month to C&M Strategies and Grassroots Strategies from mid-2011 through the end of the year. Despite the substantial evidence that C&M Strategies (through its principal, Guy Short) worked

full time for the Respondent during November and December 2011 in anticipation of the Iowa Caucus, the Respondent did not report paying the \$22,500 monthly consulting fees for either month. Instead, the Respondent's obligations under the contract during this time were paid by Many Individual Conservatives Helping Elect Leaders Everywhere (MichelePAC), Bachmann's leadership PAC, which was under the control of Guy Short, principal of C&M Strategies.

7. MichelePAC paid \$45,000 to C&M Strategies for consulting services performed for the Respondent during November and December 2011. The Commission found reason to believe that these payments resulted in the Respondent knowingly accepting excessive in-kind contributions in the amount of \$35,000: \$45,000 paid to C&M for services performed in November and December, minus the \$5,000 the Act permitted MichelePAC to contribute to the Committee in each of calendar years 2011 and 2012. Furthermore, the Commission found reason to believe that the Respondent did not report these amounts as in-kind contributions on its 2011 Year-End and 2012 February Monthly Reports.

V. The Commission found reason to believe that the Respondent violated 52 U.S.C. § 30104(b)(5)(A) by failing to properly disclose its disbursements, 52 U.S.C. § 30116(f) by knowingly accepting those excessive in-kind contributions, and 52 U.S.C. § 30104(b)(2)(D) by failing to report them. Respondent contends that any such violations were not knowing and willful.

VI. 1. Without admitting liability in this matter or with respect to any other proceeding, but in order to resolve this matter, Respondent will pay a civil penalty to the Federal Election Commission in the amount of \$17,500, pursuant to 52 U.S.C. § 30109(a)(5)(A).

2. Respondent will comply with 52 U.S.C. § 30104(b)(5)(A), 52 U.S.C. § 30116(f), and 52 U.S.C. § 30104(b)(2)(D).

3. Respondent will amend its October 2011 Quarterly Report, 2011 Year-End Report, and 2012 February Monthly Report within 30 days.

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

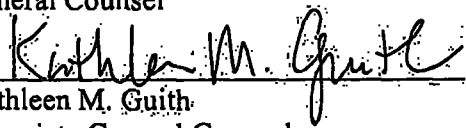
IX. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

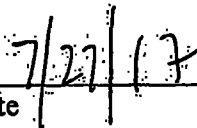
FOR THE COMMISSION:

Lisa J. Stevenson
Acting General Counsel

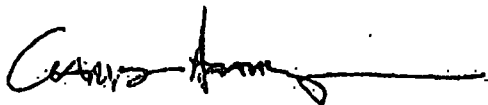
BY:


Kathleen M. Guith
Associate General Counsel

Date



FOR THE RESPONDENT:



June 5, 2017

Christopher M. Marston
Treasurer, Bachmann for President

Date

By Chris Ashby, Esq.,
Counsel of Record

ENCLOSURE

1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

4
5 RESPONDENTS: Bachmann for President and Nancy MUR: 6724
6 H. Watkins in her official capacity
7 as treasurer
8
9 Many Individual Conservatives Helping
10 Elect Leaders Everywhere (MichelePAC)
11 and Barry Arrington in his official capacity
12 as treasurer
13
14 Nancy H. Watkins in her individual capacity
15
16

17 **I. INTRODUCTION**

18 This matter was generated by a complaint filed by Peter Waldron and a referral from the
19 Office of Congressional Ethics ("OCE Referral") alleging that presidential candidate Michele
20 Bachmann's principal campaign committee, Bachmann for President and Nancy H. Watkins in
21 her official capacity as treasurer (the "Committee"), and her leadership PAC, Many Individual
22 Conservatives Helping Elect Leaders Everywhere PAC and Barry Arrington in his official
23 capacity as treasurer ("MichelePAC"), among others, engaged in various transactions that
24 violated the Federal Election Campaign Act of 1971, as amended (the "Act").

25 As discussed below in greater detail, the Commission finds reason to believe that the
26 Committee and MichelePAC failed to properly disclose their disbursements pursuant to 52
27 U.S.C. § 30104(b)(5) (formerly 2 U.S.C. § 434(b)(5)). The Commission also finds reason to
28 believe that MichelePAC made excessive in-kind contributions to the Committee when it paid
29 C&M's fees for work done for the Committee, and reason to believe that the Committee
30 knowingly accepted the excessive in-kind contributions and failed to properly report them in
31 violation of 52 U.S.C. § 30116 (formerly 2 U.S.C. § 441a). Finally, the Commission finds no

reason to believe that Nancy H. Watkins in her individual capacity violated 52 U.S.C. § 30104(b)(5) (formerly 2 U.S.C. § 434(b)(5)).

II. FACTUAL AND LEGAL ANALYSIS

A. Facts

Bachmann for President was Representative Michele Bachmann's principal campaign committee during her 2012 presidential campaign.¹ MichelePAC is Bachmann's leadership PAC.² Short is the sole principal of C&M, a political consulting firm that was retained by each of the Bachmann Committees during Bachmann's 2012 presidential campaign.³ Through these arrangements, Short acted as the Committee's National Political Director and MichelePAC's Executive Director.⁴ Kent Sorenson was an Iowa state senator and the Committee's Iowa State Chairman from shortly after its establishment in June 2011 through November 2011.⁵ He is the sole principal of Grassroots Strategy, Inc. ("Grassroots"), a political consulting firm that was hired to support each of the Bachmann Committees during the 2012 election cycle.⁶

In "early 2011" Andy Parrish, Bachmann's former Chief of Staff, personally recruited Sorenson to support Bachmann's presidential campaign.⁷ On March 11, 2011, Sorenson became

¹ Bachmann for President Statement of Organization at 2 (June 8, 2011).

² MichelePAC Resp. at 1.

³ Short Resp. at 1.

⁴ Compl. at 1.

⁵ OCE Referral ¶ 1.

⁶ *Id.* ¶ 35; MichelePAC Resp. at 2; Short Resp. at 1-2. According to its public filings with the Iowa Secretary of State, Sorenson incorporated Grassroots as a domestic profit corporation in 2010, listing himself as its incorporator/director. Grassroots reports no other directors or officers. See IOWA SEC'Y OF STATE, [http://sos.iowa.gov/search/business/\(S\(xnyuv445jwletg455viubm45\)\)/officers.aspx](http://sos.iowa.gov/search/business/(S(xnyuv445jwletg455viubm45))/officers.aspx) (last visited Apr. 2, 2014).

⁷ OCE Referral ¶ 5.

1 the first elected official in Iowa to endorse Bachmann's candidacy.⁸ Sorenson then began
2 "providing strategic advice about the Iowa political landscape, recommending staff members to
3 the campaign, recruiting other Iowa legislators to the Bachmann cause, and making
4 communications on the campaign's behalf."⁹ According to Parrish, it became clear that
5 "Sorenson would require payment in exchange for his work on the Bachmann campaign."¹⁰
6 Sorenson and Parrish allegedly believed that Iowa Senate Code of Ethics prohibited Sorenson
7 from accepting payment from the Committee or MichelePAC.¹¹ Over the course of March and
8 April 2011, Sorenson, Parrish, and Short negotiated the terms of the arrangement, ultimately
9 agreeing that the Committee would pay an additional \$7,500 per month to C&M under the
10 existing \$15,000 per month contract (for a total of \$22,500 per month), and C&M would then
11 pass the additional amount to Sorenson through Grassroots.¹² The OCE Referral notes that
12 "OCE has received no information" that Sorenson took direction from Short or performed any
13 work for C&M, and that "it does not appear that C&M exercised any independent control over

⁸ Report to the Senate Ethics Committee on the Investigation of State Senator Kent Sorenson, 39 (Oct. 2, 2013), available at http://archive.desmoinesregister.com/assets/pdf/Sorenson_investigation_part1.pdf (Volume I) and http://archive.desmoinesregister.com/assets/pdf/Sorenson_investigation_part2.pdf (Volume II) ("Independent Investigator's Report").

⁹ *Id.* at 39-40.

¹⁰ *Id.* at 40; see OCE Referral ¶ 6.

¹¹ OCE Referral ¶ 7. Most of the documents in the OCE Referral assume that Sorenson, as a sitting state senator, was prohibited by state law from being paid by the Committee. The Committee notes in its Response, however, that Iowa state law appears to exempt federal campaigns from the restriction placed on state officeholders, including members of the Iowa senate. See Committee Resp. at 7. In any event, the Iowa Supreme Court appointed an independent investigator who found probable cause to believe that Sorenson violated the Iowa Senate Code of Ethics by accepting compensation from MichelePAC (and possibly violated the Code by accepting compensation from the Committee) for his work on the Bachmann campaign. See Independent Investigator's Report at 4-5. Sorenson resigned after the release of the independent investigator's report.

¹² OCE Referral ¶¶ 6-19. C&M would pass along a total of \$59,915 — \$7,489 per month for eight months — to Sorenson/Grassroots over the course of 2011. Independent Investigator's Report at 48-49.

1 the funds it received” from the Committee that were “earmarked” for Sorenson.¹³ Accordingly,
2 the OCE Referral concludes that the Committee paid Sorenson \$7,500 per month but “routed”
3 the payments through C&M to avoid disclosing that Sorensen was the intended recipient.¹⁴

4 Although the Committee was not yet established, Short and Sorenson were already
5 working on behalf of Bachmann’s candidacy. During May, MichelePAC paid \$24,000 to
6 C&M.¹⁵ Grassroots received its first payment from C&M on May 16 in the amount of \$8,275.¹⁶
7 After the Committee officially formed in June, it entered into the previously arranged contract
8 with C&M, which ran from June 13 to December 31.¹⁷ Pursuant to that contract, the Committee
9 made the following payments to C&M: \$33,750 on July 29 (presumably covering half of June
10 and all of July at a monthly rate of \$22,500); \$25,830 on September 12 (covering August
11 services); \$22,500 on October 11 (covering September services); and \$22,500 on November 9
12 (covering October services).¹⁸ The record shows no payments made from the Committee to
13 C&M for services performed during November and December 2011, despite the fact that various
14 witness accounts provided with the OCE Referral state that Short worked on a full-time basis for

¹³ OCE Referral ¶¶ 26, 28.

¹⁴ *Id.*

¹⁵ See Independent Investigator’s Report at 47-49.

¹⁶ *Id.* at 48.

¹⁷ Committee Resp., Attach. B; OCE Referral ¶ 15, Ex. 9; see Committee Resp., Attach. C (showing invoices from C&M to the Committee at a monthly rate of \$22,500).

¹⁸ See 2011 October Quarterly Report; 2011 Year End Report.

1 the Committee in late 2011 and early 2012.¹⁹ This time period is approximately when the
2 Committee began running short of funds.²⁰

3 As the Committee ceased its payments to C&M, MichelePAC's payments to C&M saw a
4 corresponding increase. MichelePAC — which had been paying \$5,000 per month to C&M
5 since the Committee's establishment in mid-June — then paid \$20,000 on December 6, 2011,
6 and \$20,000 on January 3, 2012, for "fundraising consulting."²¹ Combined with a \$5,000
7 payment from MichelePAC to C&M on November 30,²² MichelePAC appears to have paid a
8 total of \$45,000 to C&M for services rendered in November and December, the same amount
9 that the Committee owed to C&M and Grassroots (\$22,500 per month) for their work over that
10 period.²³

11 In addition to the allegations surrounding payments to C&M and Grassroots, the
12 Complaint further alleges that the Committee coordinated media buys and placement with NFC
13 PAC, a "hybrid PAC" registered with the Commission.²⁴ The allegations are based on a
14 discussion that Complainant represents he personally witnessed in late 2011 between Committee

¹⁹ See, e.g., Parrish MOI ¶¶ 37-40; OCE Referral, Mem. of Interview, Robert Heckman ¶¶ 22-23 (Mar. 26, 2013) ("Heckman MOI"); Woolson MOI ¶¶ 10, 14, 16. We are not aware of any information about any discussion or agreement between C&M and the Committee to amend the contract to relieve the Committee from its obligation to pay C&M its monthly consulting fee through December 31, 2011. The Committee also did not disclose any debts or obligations to C&M on its 2011 Year End Report covering the last quarter of the year (and just a \$1,532.70 debt to Short during that time, which it listed as "mileage" when it reimbursed him on January 4, 2013).

²⁰ See Bachmann MOI ¶ 40; Parrish MOI ¶ 41; Woolson MOI ¶¶ 17-18.

²¹ See Committee Resp., Attach. F, BFP_FEC-000163-164.

²² *Id.* at BFP_FEC-000162.

²³ Sorenson shifted his support to Ron Paul in December 2011. Parrish Aff. ¶ 5.

²⁴ Compl. at 3.

1 "Senior Advisor and Speech Coach Brett O'Donnell" and NFC PAC president Bill Hemrick.²⁵
2 NFC PAC's disclosure reports reveal disbursements totaling \$13,950 to "Clear Channel"²⁶
3 between January 3 and 6, 2012.²⁷

4 In response to its alleged failure to accurately disclose its disbursements, the Committee
5 states that it properly reported all payments to C&M, its "primary vendor," and that the Act and
6 Commission regulations do not require a campaign committee to "list sub-vendors that C&M
7 Strategies ultimately may have hired to fulfill its responsibilities" or disclose payments made by
8 its vendors to subcontractors in connection with the vendors' services provided to the
9 campaign.²⁸ Like the Committee, MichelePAC asserts that it made no effort to conceal
10 payments to Sorenson, and that the Act does not require reporting of payments made to
11 subvendors.²⁹ Short and C&M similarly assert that there was no effort to conceal payments to
12 Sorenson, and that the "arrangement was indistinguishable from thousands of other
13 contractor/subcontractor or vendor/subvendor arrangements involving services provided to

²⁵ *Id.*

²⁶ Although NFC PAC did not list a "Purpose of Disbursement," these are the only disbursements in late 2011 or early 2012 that are clearly associated with a media vendor. Because the disbursements at issue appear to have been made from NFC PAC's non-contribution account (which was permitted to accept funds in unlimited amounts from individuals, corporations, labor organizations, and/or other political committees), any in-kind contributions resulting from coordination may constitute violations of 52 U.S.C. §§ 30116 and 30118 (formerly 2 U.S.C. §§ 441a and 441b). Our review revealed that NFC PAC's non-contribution account received \$17,000 from one individual in 2011 but no funds from corporations or labor unions; accordingly, only section 441a may be implicated by this allegation.

²⁷ 2012 April Quarterly Report, 10-13. It is unclear, however, whether the resulting communications were actually distributed in advance of the January 3, 2012, Iowa Caucus.

²⁸ Committee Resp. at 4-5.

²⁹ MichelePAC Resp. at 2.

1 political committees.”³⁰ Sorenson did not file a response in this matter. He did, however, submit
2 a response to the Iowa State Senate Ethics Committee, provided to the Commission as part of the
3 OCE Referral, wherein he maintains that he “was never paid directly or indirectly” by either of
4 the Bachmann Committees.³¹

5 In response to the allegation that MichelePAC assumed the Committee’s payment
6 obligations, the respondents point to C&M’s invoices to MichelePAC during this period
7 describing the services (fundraising and management consulting, a fundraising project, and a
8 research project), and contend that these invoices indicate that MichelePAC’s payments were
9 legitimate compensation for *bona fide* services.³² Neither Short nor MichelePAC, however,
10 provides any details about the existence of any such project in fact, including who requested
11 work, when it was performed or completed, and how the cost was determined, despite the fact
12 that Short would have had the authority to approve any such fundraising project for MichelePAC
13 in December 2011.³³

14 Finally, the Committee contends that the “content” standard of the coordination test is not
15 satisfied because the Complaint does not allege that any advertisements were sponsored by NFC
16 PAC after the alleged conversation between the campaign advisor and Hemrick occurred in late

³⁰ Short Resp. at 2.

³¹ OCE Referral ¶ 32, Ex. 16.

³² Committee Resp. at 8-9; MichelePAC Resp. at 2.

³³ Bachmann MOI ¶ 46; Parrish MOI ¶¶ 28, 33-34. Short established MichelePAC at Bachmann’s direction and was “in charge” of MichelePAC during all relevant times. Bachmann MOI ¶¶ 4-5; Parrish MOI ¶¶ 26-27. According to Bachmann, Short was responsible for approving non-contribution disbursements made by MichelePAC as well as the hiring and firing of employees or consultants. Bachmann MOI ¶¶ 7-8. Short was also responsible for setting up his own consulting agreement, negotiating his own compensation arrangements, supervising his own work, and reviewing and approving the payment of invoices, including invoices from or payments to his own firm, C&M. *Id.* ¶¶ 9-13, 36; Parrish MOI ¶¶ 29, 33-34.

1 2011.³⁴ Although NFC PAC's treasurer asserts that he knows nothing about the alleged
2 discussion, he states that Hemrick instructed him to pay for radio advertising time that Hemrick
3 had arranged on Iowa stations prior to the January 3, 2012, Iowa caucuses.³⁵

4 **B. Analysis**

5 1. There is Reason to Believe the Committee Violated Section 30104(b)(5)

6 The Act and Commission regulations require political committees to report the name and
7 address of each person to whom they make expenditures or other disbursements aggregating
8 more than \$200 per calendar year, or per election cycle for authorized committees, as well as the
9 date, amount, and purpose of such payments.³⁶ These reporting requirements are intended to
10 ensure public disclosure of "where political campaign money comes from and how it is spent."³⁷
11 Neither the Act nor the Commission's relevant implementing regulations address the concepts of
12 ultimate payees, vendors, agents, contractors, or subcontractors in this context.³⁸ The
13 Commission has determined, however, that merely reporting the immediate recipient of a

³⁴ Committee Resp. at 9-11.

³⁵ NFC PAC Resp. at 1.

³⁶ 52 U.S.C. § 30104(b)(5), (6) (formerly 2 U.S.C. § 434(b)(5), (6)); 11 C.F.R. § 104.3(b)(4)(i), (vi) (authorized committees); *id.* § 104.9(a), (b) (political committees).

³⁷ *Buckley v. Valeo*, 424 U.S. 1, 66 (1976); *see also Citizens United v. FEC*, 558 U.S. 310, 369-71 (2010) (describing importance of disclosure requirements to serve informational interest, because "transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages").

³⁸ Advisory Op. 1983-25 (Mondale for President) at 2. The Commission has since addressed the requirements of section 434(b)(5) in certain situations not applicable to these facts. *See* Reporting Ultimate Payees of Political Committee Disbursements, 78 Fed. Reg. 40,625, 46,026 (July 8, 2013) (clarifying committee's obligations to report "ultimate payees" in three specific scenarios not articulated in the Act or regulations: candidates who use personal funds to pay committee expenses without reimbursement; payments to credit card companies; and reimbursements to candidates who use personal funds to pay committee expenses).

1 committee's payment will not satisfy the requirements of section 30104(b)(5) when the facts
2 indicate that the immediate recipient is merely a conduit for the intended recipient of the funds.³⁹

3 For instance, in MUR 4872 (Jenkins), a committee hired a vendor — Impact Mail — to
4 perform phone bank services on the committee's behalf. When the committee discovered that
5 David Duke's name and phone number appeared on caller identification for calls placed by
6 Impact Mail's phone bank, the committee wanted to prevent any association with Duke and
7 sought to terminate its relationship with Impact Mail.⁴⁰ When this proved difficult, the
8 committee took measures to conceal its relationship with Impact Mail by routing its payments to
9 Impact Mail through a second, unrelated vendor, Courtney Communications, and reporting
10 Courtney Communications as the payee on disclosure reports.⁴¹ Although Courtney
11 Communications was a vendor that provided media services for the committee during the period
12 in question, Impact Mail was not a subvendor of Courtney Communications because Courtney
13 Communications "had no involvement whatsoever with the services provided by Impact Mail."⁴²
14 Its only role was "to serve as a conduit for payment to Impact Mail so as to conceal the
15 transaction with Impact Mail."⁴³

³⁹ Even though a committee may satisfy recordkeeping requirements by retaining a payee's "invoices and the Committee's canceled checks issued in payment," *see* AO 1983-25 at 2-3, a committee does not satisfy its disclosure obligations under section 30104(b)(5) by merely relying on those documents when the committee has previously instructed the payee to pass payments along to a third party that was not involved in the provision of services by the payee. Conciliation Agreement at 3, MUR 4872 (Jenkins).

⁴⁰ Conciliation Agreement at 2-3, MUR 4872 (Jenkins).

⁴¹ *Id.* at 3-4.

⁴² *Id.*

⁴³ *Id.* at 4; *see also* MUR 3847 (Stockman) (finding probable cause that committee violated section 30104(b)(5) when it paid at least vendor through a conduit).

1 As in MUR 4872 (Jenkins), here the Committee used C&M merely “to serve as a conduit
2 for payment”⁴⁴ — thereby concealing the true, intended recipient of the disbursements. The
3 Committee made the decision to hire Sorenson and negotiated the terms of his compensation,⁴⁵
4 and only out of a desire to conceal payments to Sorenson did it ultimately agree to route the
5 money through C&M.⁴⁶ Sorenson took no direction from Short nor performed any work for
6 C&M, and “it does not appear that C&M exercised any independent control over the funds it
7 received” from the Committee that were “earmarked” for Sorenson.⁴⁷ By contrast, available
8 evidence indicates that Sorenson reported to and took direction from the Committee.⁴⁸ Given the
9 weight of the evidence, we agree with OCE’s conclusion that the Committee routed payments
10 through C&M to avoid disclosing that Sorensen was the intended recipient.⁴⁹

11 In its Response, the Committee argues that the Commission’s resolution on the facts
12 submitted in Advisory Opinion 1983-25 (Mondale for President) should apply here, but that
13 reliance is misplaced. In AO 1983-25 the Commission determined that in certain circumstances
14 an authorized committee is not required to report separately payments the committee’s vendors
15 make to other persons, such as payments for services or goods used in the performance of the
16 vendor’s contract with the committee.⁵⁰ But assuming that C&M was a “vendor” under AO

⁴⁴ Conciliation Agreement at 4, MUR 4872 (Jenkins).

⁴⁵ OCE Referral ¶¶ 6-13.

⁴⁶ *Id.* ¶¶ 8-19.

⁴⁷ *Id.* ¶¶ 26, 28.

⁴⁸ Parrish Aff., Ex. C & D.

⁴⁹ OCE Referral ¶ 28.

⁵⁰ Advisory Op. 1983-25 (Mondale for President); *see* Factual and Legal Analysis at 12, MUR 6510 (Kirk for Senate *et al.*) (media consultant was a vendor where it did not hold a position with the committee, nor did it work

1 1983-25, there is no evidence that Sorenson's services as Iowa State Chair were "used in the
2 performance of" C&M's contract with the Committee.⁵¹ Rather, the facts presented in the OCE
3 Referral suggest that the Committee agreed to Sorenson's request to be compensated for his
4 service as its Iowa State Chair and would have paid Sorenson directly were it not for his
5 concerns that Iowa Senate ethics rules prevented him from being paid by the Committee for his
6 work.⁵² The facts also suggest that Sorenson took no direction from Short and performed no
7 work for C&M.— indeed, Sorenson denies being employed by C&M.⁵³

8 As set forth above, it appears that the Committee used C&M merely to serve as a conduit
9 for payment — thereby failing to report the true, intended recipient of the disbursements.
10 Accordingly, the Commission finds reason to believe that the Committee violated 52 U.S.C.
11 § 30104(b)(5) (formerly 2 U.S.C. § 434(b)(5)).⁵⁴

exclusively for committee at any time, and where it hired multiple subvendors to aid in the performance of its contract).

⁵¹ Advisory Op. 1983-25 (Mondale for President) at 2; Factual and Legal Analysis at 12, MUR 6510 (Kirk for Senate *et al.*).

⁵² OCE Referral ¶¶ 6-17.

⁵³ *Id.* ¶¶ 26-28, 31.

⁵⁴ Watkins was also notified that she may have violated 52 U.S.C. § 30104(b)(5) (formerly 2 U.S.C. § 434(b)(5)) in her individual capacity. The Commission will consider a treasurer of a political committee subject to enforcement action in her individual capacity when the information indicates that the treasurer: (a) knowingly and willfully violated the Act or regulations; (b) recklessly failed to fulfill the duties imposed by a provision of the Act or regulations that applies specifically to treasurers, or (c) intentionally deprived herself of the operative facts giving rise to a violation. Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 3, 6 (Jan. 3, 2005). There is no information in the Complaint or OCE Referral upon which to conclude that Watkins acted in a manner required to support an enforcement action against her in her individual capacity. Therefore, the Commission finds no reason to believe Nancy H. Watkins violated 52 U.S.C. § 30104(b)(5) (formerly 2 U.S.C. § 434(b)(5)) in her individual capacity.

2. There is Reason to Believe MichelePAC Violated Section 30104(b)(5)

Although the OCE Referral does not address the relationship between MichelePAC, C&M, and Sorenson to the same degree as that involving the Committee, C&M, and Sorenson, the Responses appear to indicate that the two sets of relationships were not materially different — that is, MichelePAC paid C&M, C&M passed along a certain amount that was designated for Sorenson, and Sorenson did not take any direction from or perform any work for C&M.⁵⁵ Accordingly, the Commission finds reason to believe that MichelePAC violated 52 U.S.C. § 30104(b)(5) (formerly 2 U.S.C. § 434(b)(5)).

3. There is Reason to Believe MichelePAC and the Committee Violated Section 30116

The Act provides that no multicandidate political committee shall make contributions to any candidate and his or her authorized political committee, which, in the aggregate, exceed \$5,000 per calendar year,⁵⁶ and no candidate or political committee shall knowingly accept contributions in violation of the limitations and prohibitions of the Act.⁵⁷ “Contribution” under the Act and Commission regulations includes the payment by any person of compensation for the personal services of another person rendered to a political committee without charge for any purpose.⁵⁸

⁵⁵ OCE Referral ¶¶ 26-28, 31; Short Resp. at 2.

⁵⁶ 52 U.S.C. § 30116(a)(2)(A) (formerly 2 U.S.C. § 441a(a)(2)(A)).

⁵⁷ *Id.* § 30116(f) (formerly § 441a(f)).

⁵⁸ *Id.* § 30101(8)(A)(ii) (formerly § 431(8)(A)(ii)); 11 C.F.R. §§ 100.52(d), 100.54.

1 Despite the substantial evidence that Short and his company, C&M, worked full time for
2 the Committee during November and December 2011 in anticipation of the Iowa Caucus,⁵⁹ the
3 Committee did not report paying any of the \$22,500 monthly consulting fees to C&M or
4 Sorenson/Grassroots as required by their consulting agreement.⁶⁰ Instead, MichelePAC (for
5 which Short served as Executive Director) paid C&M \$5,000 on November 30, \$20,000 on
6 December 6, and \$20,000 on January 3, for a total of \$45,000 — the same amount the
7 Committee owed to C&M and Sorenson/Grassroots for two months of consulting services.
8 Moreover, because Short worked full time for the Committee during November and December, it
9 is unlikely that he would have had time to perform for MichelePAC a significant enough
10 “fundraising and research project . . . unrelated to his work”⁶¹ on the campaign to justify the
11 \$22,500 per month payments from MichelePAC. In fact, Bachmann stated that she did not recall
12 any such fundraising project or approving any fundraising letters for MichelePAC during this
13 period.⁶² Moreover, she stated that when she asked her campaign finance chairman, James
14 Pollack, to review the payments from MichelePAC to C&M, Pollack told her it was “odd that
15 while Mr. Short had been getting monthly retainer payments from MichelePAC, there was a
16 lump sum payment to Mr. Short in December 2011.”⁶³ He further suggested that Short had

⁵⁹ See *supra* note 19.

⁶⁰ See Committee Resp., Attach. C.

⁶¹ Short Resp. at 2.

⁶² Bachmann MOI ¶¶ 44-45.

⁶³ *Id.* ¶ 50.

1 “‘pushed’ his retainer payments ‘together,’ either taking deferred compensation all at once or
2 pre-paying himself for future work.”⁶⁴

3 Based on the available information, it appears that MichelePAC paid the Committee’s
4 obligations to C&M in late 2011 and early 2012, thereby making in-kind contributions to the
5 Committee. Accordingly, the Commission finds reason to believe MichelePAC violated 52
6 U.S.C. § 30116(a)(2)(A) (formerly 2 U.S.C. § 441a(a)(2)(A)) by making excessive in-kind
7 contributions to the Committee and that the Committee violated 52 U.S.C. § 30116(f) (formerly
8 2 U.S.C. § 441a(f)) by knowingly accepting those excessive in-kind contributions and 52 U.S.C.
9 § 30104(b)(2)(D) (formerly 2 U.S.C. § 434(b)(2)(D)) by failing to report them.⁶⁵
10

⁶⁴ *Id.* ¶¶ 49-54. There was apparently little or no oversight of Short’s work for MichelePAC or his billing practices. Bachmann appears to have given him full authority to authorize payments to himself through C&M. *See, e.g., id.* ¶¶ 5-13, 32-38.

⁶⁵ *See* Factual and Legal Analysis (Peace Through Strength PAC) at 5, MUR 5908 (Hunter) (Feb. 19, 2009) (finding reason to believe that presidential candidate Duncan Hunter’s leadership PAC paid for travel expenses properly attributable to Hunter’s presidential campaign). The Commission premised its reason-to-believe determination in that matter primarily on the fact that neither Hunter nor his principal campaign committee reported any contributions received or expenditures made during a period in which Hunter had been traveling the country and promoting his campaign, yet his leadership PAC had disclosed disbursements for travel expenses around the same time. *Id.* at 4-5. The subsequent investigation, however, did not contradict the respondents’ assertion that the travel expenses advanced the leadership PAC’s core mission, and the Commission ultimately dismissed the matter, noting that even if the two committees had benefitted equally from the travel disbursements, the potentially excessive contributions would have been only approximately \$100 ($\$10,200/2 = \$5,100$, minus the maximum allowable contribution of \$5,000). Statement of Reasons of Chairman Petersen and Commissioners Hunter, McGahn, Walther, and Weintraub at 3, MUR 5908 (Aug. 23, 2010). Unlike that matter, however, the amount at issue is not *de minimis* in the present case.

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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4
5 RESPONDENTS: Kent Sorenson

MUR: 6724

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8 **I. INTRODUCTION**

9 This matter was generated by a complaint filed by Peter Waldron and a referral from the
10 Office of Congressional Ethics ("OCE Referral") alleging that presidential candidate Michele
11 Bachmann's principal campaign committee, Bachmann for President and Nancy H. Watkins in
12 her official capacity as treasurer (the "Committee"), and her leadership PAC, Many Individual
13 Conservatives Helping Elect Leaders Everywhere PAC and Barry Arrington in his official
14 capacity as treasurer ("MichelePAC"), and Kent Sorenson, among others, engaged in various
15 transactions that violated the Federal Election Campaign Act of 1971, as amended (the "Act").

16 As discussed below in greater detail, the Commission finds no reason to believe Sorenson
17 violated 52 U.S.C. § 30104(b)(5) (formerly 2 U.S.C. § 434(b)(5)).

18 **II. FACTUAL AND LEGAL ANALYSIS**

19 **A. Facts**

20 Bachmann for President was Representative Michele Bachmann's principal campaign
21 committee during her 2012 presidential campaign.¹ MichelePAC is Bachmann's leadership
22 PAC. Short is the sole principal of C&M Strategies, Inc. ("C&M"), a political consulting firm
23 that was retained by each of the Bachmann Committees during Bachmann's 2012 presidential
24 campaign. Through these arrangements, Short acted as the Committee's National Political
25 Director and MichelePAC's Executive Director.² Kent Sorenson was an Iowa state senator and

¹ Bachmann for President Statement of Organization at 2 (June 8, 2011).

² Compl. at 1.

1 the Committee's Iowa State Chairman from shortly after its establishment in June 2011 through
2 November 2011.³ He is the sole principal of Grassroots Strategy, Inc. ("Grassroots"), a political
3 consulting firm that was hired to support each of the Bachmann Committees during the 2012
4 election cycle.⁴

5 In "early 2011" Andy Parrish, Bachmann's former Chief of Staff, personally recruited
6 Sorenson to support Bachmann's presidential campaign.⁵ On March 11, 2011, Sorenson became
7 the first elected official in Iowa to endorse Bachmann's candidacy.⁶ Sorenson then began
8 "providing strategic advice about the Iowa political landscape, recommending staff members to
9 the campaign, recruiting other Iowa legislators to the Bachmann cause, and making
10 communications on the campaign's behalf."⁷ According to Parrish, it became clear that
11 "Sorenson would require payment in exchange for his work on the Bachmann campaign."⁸
12 Sorenson and Parrish allegedly believed that Iowa Senate Code of Ethics prohibited Sorenson
13 from accepting payment from the Committee or MichelePAC.⁹ Over the course of March and

³ OCE Referral ¶ 1.

⁴ *Id.* ¶ 35. According to its public filings with the Iowa Secretary of State, Sorenson incorporated Grassroots as a domestic profit corporation in 2010, listing himself as its incorporator/director. Grassroots reports no other directors or officers. See IOWA SEC'Y OF STATE, [http://sos.iowa.gov/search/business/\(S\(xnyuv445jwlcig455-yiubin455\)\)/officers.aspx](http://sos.iowa.gov/search/business/(S(xnyuv445jwlcig455-yiubin455))/officers.aspx) (last visited Apr. 2, 2014).

⁵ OCE Referral ¶ 5.

⁶ Report to the Senate Ethics Committee on the Investigation of State Senator Kent Sorenson, 39 (Oct. 2, 2013), available at http://archive.desmoinesregister.com/assets/pdf/Sorenson_investigation_part1.pdf (Volume I) and http://archive.desmoinesregister.com/assets/pdf/Sorenson_investigation_part2.pdf (Volume II) ("Independent Investigator's Report").

⁷ *Id.* at 39-40.

⁸ *Id.* at 40; see OCE Referral ¶ 6.

⁹ OCE Referral ¶ 7. Most of the documents in the OCE Referral assume that Sorenson, as a sitting state senator, was prohibited by state law from being paid by the Committee. In any event, the Iowa Supreme Court appointed an independent investigator who found probable cause to believe that Sorenson violated the Iowa Senate Code of Ethics by accepting compensation from MichelePAC (and possibly violated the Code by accepting

1 April 2011, Sorenson, Parrish, and Short negotiated the terms of the arrangement, ultimately
2 agreeing that the Committee would pay an additional \$7,500 per month to C&M under the
3 existing \$15,000 per month contract (for a total of \$22,500 per month), and C&M would then
4 pass the additional amount to Sorenson through Grassroots.¹⁰ The OCE Referral notes that
5 “OCE has received no information” that Sorenson took direction from Short or performed any
6 work for C&M, and that “it does not appear that C&M exercised any independent control over
7 the funds it received” from the Committee that were “earmarked” for Sorenson.¹¹ Accordingly,
8 the OCE Referral concludes that the Committee paid Sorenson \$7,500 per month but “routed”
9 the payments through C&M to avoid disclosing that Sorenson was the intended recipient.¹²

10 Although the Committee was not yet established, Short and Sorenson were already
11 working on behalf of Bachmann’s candidacy. During May, MichelePAC paid \$24,000 to
12 C&M.¹³ Grassroots received its first payment from C&M on May 16 in the amount of \$8,275.¹⁴
13 After the Committee officially formed in June, it entered into the previously arranged contract
14 with C&M, which ran from June 13 to December 31.¹⁵ Pursuant to that contract, the Committee
15 made the following payments to C&M: \$33,750 on July 29 (presumably covering half of June
16 and all of July at a monthly rate of \$22,500); \$25,830 on September 12 (covering August

compensation from the Committee) for his work on the Bachmann campaign. *See* Independent Investigator’s Report at 4-5. Sorenson resigned after the release of the independent investigator’s report.

¹⁰ OCE Referral ¶¶ 6-19. C&M would pass along a total of \$59,915 — \$7,489 per month for eight months — to Sorenson/Grassroots over the course of 2011. Independent Investigator’s Report at 48-49.

¹¹ OCE Referral ¶¶ 26, 28.

¹² *Id.*

¹³ *See* Independent Investigator’s Report at 47-49.

¹⁴ *Id.* at 48.

¹⁵ OCE Referral ¶ 15, Ex. 9.

1 services); \$22,500 on October 11 (covering September services); and \$22,500 on November 9
2 (covering October services).¹⁶ The record shows no payments made from the Committee to
3 C&M for services performed during November and December 2011, despite the fact that various
4 witness accounts provided with the OCE Referral state that Short worked on a full-time basis for
5 the Committee in late 2011 and early 2012.¹⁷ This time period is approximately when the
6 Committee began running short of funds.¹⁸

7 As the Committee ceased its payments to C&M, MichelePAC's payments to C&M saw a
8 corresponding increase. MichelePAC — which had been paying \$5,000 per month to C&M
9 since the Committee's establishment in mid-June — then paid \$20,000 on December 6, 2011,
10 and \$20,000 on January 3, 2012, for "fundraising consulting." Combined with a \$5,000 payment
11 from MichelePAC to C&M on November 30, MichelePAC appears to have paid a total of
12 \$45,000 to C&M for services rendered in November and December, the same amount that the
13 Committee owed to C&M and Grassroots (\$22,500 per month) for their work over that period.¹⁹

14 Sorenson did not file a response in this matter. He did, however, submit a response to the
15 Iowa State Senate Ethics Committee, provided to the Commission as part of the OCE Referral,

¹⁶ See 2011 October Quarterly Report; 2011 Year End Report.

¹⁷ See, e.g., Parrish MOI ¶¶ 37-40; OCE Referral, Mem. of Interview, Robert Heckman ¶¶ 22-23 (Mar. 26, 2013) ("Heckman MOI"); Woolson MOI ¶¶ 10, 14, 16. We are not aware of any information about any discussion or agreement between C&M and the Committee to amend the contract to relieve the Committee from its obligation to pay C&M its monthly consulting fee through December 31, 2011. The Committee also did not disclose any debts or obligations to C&M on its 2011 Year End Report covering the last quarter of the year (and just a \$1,532.70 debt to Short during that time, which it listed as "mileage" when it reimbursed him on January 4, 2013).

¹⁸ See Bachmann MOI ¶ 40; Parrish MOI ¶ 41; Woolson MOI ¶¶ 17-18.

¹⁹ Sorenson shifted his support to Ron Paul in December 2011. Parrish Aff. ¶ 5.

1 wherein he maintains that he “was never paid directly or indirectly” by either of the Bachmann
2 Committees.²⁰

3 **B. Analysis**

4 1. There is No Reason to Believe Sorenson Violated Section 30104(b)(5)

5 Sorenson’s involvement under these facts ends with his receiving payments from the
6 Committee and MichelePAC. Merely receiving those payments, however, does not impress
7 upon the recipient an obligation to report the committees’ expenditures. Accordingly, the
8 Commission finds no reason to believe that Sorenson violated 52 U.S.C. § 30104(b)(5) (formerly
9 2 U.S.C. § 434(b)(5)).

²⁰ OCE Referral ¶ 32, Ex. 16.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: C&M Strategies, Inc.

MUR: 6724

Guy Short

I. INTRODUCTION

This matter was generated by a complaint filed by Peter Waldron and a referral from the Office of Congressional Ethics ("OCE Referral") alleging that presidential candidate Michele Bachmann's principal campaign committee, Bachmann for President and Nancy H. Watkins in her official capacity as treasurer (the "Committee"), her leadership PAC, Many Individual Conservatives Helping Elect Leaders Everywhere PAC and Barry Arrington in his official capacity as treasurer ("MichelePAC"), Guy Short, and C&M Strategies, Inc. ("C&M"), among others, engaged in various transactions that violated the Federal Election Campaign Act of 1971, as amended (the "Act").

As discussed below in greater detail, the Commission finds no reason to believe that Guy Short accepted an excessive in-kind contribution on behalf of the Committee in violation of 52 U.S.C. § 30116 (formerly 2 U.S.C. § 441a). The Commission takes no action against C&M Strategies.

II. FACTUAL AND LEGAL ANALYSIS

A. Facts

Bachmann for President was Representative Michele Bachmann's principal campaign committee during her 2012 presidential campaign.¹ MichelePAC is Bachmann's leadership PAC. Short is the sole principal of C&M, a political consulting firm that was retained by each of

¹ Bachmann for President Statement of Organization at 2 (June 8, 2011).

1 the Bachmann Committees during Bachmann's 2012 presidential campaign.² Through these
2 arrangements, Short acted as the Committee's National Political Director and MichelePAC's
3 Executive Director.³ Kent Sorenson was an Iowa state senator and the Committee's Iowa State
4 Chairman from shortly after its establishment in June 2011 through November 2011.⁴ He is the
5 sole principal of Grassroots Strategy, Inc. ("Grassroots"), a political consulting firm that was
6 hired to support each of the Bachmann Committees during the 2012 election cycle.⁵

7 In "early 2011" Andy Parrish, Bachmann's former Chief of Staff, personally recruited
8 Sorenson to support Bachmann's presidential campaign.⁶ On March 11, 2011, Sorenson became
9 the first elected official in Iowa to endorse Bachmann's candidacy.⁷ Sorenson then began
10 "providing strategic advice about the Iowa political landscape, recommending staff members to
11 the campaign, recruiting other Iowa legislators to the Bachmann cause, and making
12 communications on the campaign's behalf."⁸ According to Parrish, it became clear that
13 "Sorenson would require payment in exchange for his work on the Bachmann campaign."⁹
14 Sorenson and Parrish allegedly believed that Iowa Senate Code of Ethics prohibited Sorenson

² Short Resp. at 1.

³ Compl. at 1.

⁴ OCE Referral ¶ 1.

⁵ *Id.* ¶ 35; MichelePAC Resp. at 2; Short Resp. at 1-2. According to its public filings with the Iowa Secretary of State, Sorenson incorporated Grassroots as a domestic profit corporation in 2010, listing himself as its incorporator/director. Grassroots reports no other directors or officers. *See* IOWA SEC'Y OF STATE, [http://sos.iowa.gov/search/business/\(S\(xnyuy445\)wlerg455vulpm45\)\)/officers.aspx](http://sos.iowa.gov/search/business/(S(xnyuy445)wlerg455vulpm45))/officers.aspx) (last visited Apr. 2, 2014).

⁶ OCE Referral ¶ 5.

⁷ Report to the Senate Ethics Committee on the Investigation of State Senator Kent Sorenson, 39 (Oct. 2, 2013), available at http://archive.desmoinesregister.com/assets/pdf/Sorenson_investigation_part1.pdf (Volume I) and http://archive.desmoinesregister.com/assets/pdf/Sorenson_investigation_part2.pdf (Volume II) ("Independent Investigator's Report").

⁸ *Id.* at 39-40.

⁹ *Id.* at 40; *see* OCE Referral ¶ 6.

1 from accepting payment from the Committee or MichelePAC.¹⁰ Over the course of March and
2 April 2011, Sorenson, Parrish, and Short negotiated the terms of the arrangement, ultimately
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¹¹ OCE Referral ¶¶ 6-19. C&M would pass along a total of \$59,915 — \$7,489 per month for eight months — to Sorenson/Grassroots over the course of 2011. Independent Investigator’s Report at 48-49.

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¹³ *Id.*

1 services); \$22,500 on October 11 (covering September services); and \$22,500 on November 9
2 (covering October services).¹⁷ The record shows no payments made from the Committee to
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8 corresponding increase. MichelePAC — which had been paying \$5,000 per month to C&M
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10 and \$20,000 on January 3, 2012, for "fundraising consulting." Combined with a \$5,000 payment
11 from MichelePAC to C&M on November 30, MichelePAC appears to have paid a total of
12 \$45,000 to C&M for services rendered in November and December, the same amount that the
13 Committee owed to C&M and Grassroots (\$22,500 per month) for their work over that period.²⁰

¹⁴ See Independent Investigator's Report at 47-49.

¹⁵ *Id.* at 48.

¹⁶ OCE Referral ¶ 15, Ex. 9.

¹⁷ See 2011 October Quarterly Report; 2011 Year End Report.

¹⁸ See, e.g., Parrish MOI ¶¶ 37-40; OCE Referral, Mem. of Interview, Robert Heckman ¶¶ 22-23 (Mar. 26, 2013) ("Heckman MOI"); Woolson MOI ¶¶ 10, 14, 16. We are not aware of any information about any discussion or agreement between C&M and the Committee to amend the contract to relieve the Committee from its obligation to pay C&M its monthly consulting fee through December 31, 2011. The Committee also did not disclose any debts or obligations to C&M on its 2011 Year End Report covering the last quarter of the year (and just a \$1,532.70 debt to Short during that time, which it listed as "mileage" when it reimbursed him on January 4, 2013).

¹⁹ See Bachmann MOI ¶ 40; Parrish MOI ¶ 41; Woolson MOI ¶¶ 17-18.

²⁰ Sorenson shifted his support to Ron Paul in December 2011. Parrish Aff. ¶ 5.

1 Short and C&M assert that there was no effort to conceal payments to Sorenson, and that
2 the “arrangement was indistinguishable from thousands of other contractor/subcontractor or
3 vendor/subvendor arrangements involving services provided to political committees.”²¹

4 In response to the allegation that MichelePAC assumed the Committee’s payment
5 obligations, the respondents point to C&M’s invoices to MichelePAC during this period
6 describing the services (fundraising and management consulting, a fundraising project, and a
7 research project), and contend that these invoices indicate that MichelePAC’s payments were
8 legitimate compensation for *bona fide* services. No details were provided about the existence of
9 any such project in fact, including who requested work, when it was performed or completed,
10 and how the cost was determined, despite the fact that Short would have had the authority to
11 approve any such fundraising project for MichelePAC in December 2011.²²

12 **B. Analysis**

13 1. There is No Reason to Believe Short Violated Section 441a

14 Short served as the National Political Director of the Committee, the entity that accepted
15 the alleged excessive in-kind contribution. Under the Act, “[n]o officer or employee of a
16 political committee shall knowingly accept a contribution made for the benefit or use of a
17 candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any

²¹ Short Resp. at 2.

²² Bachmann MOI ¶ 46; Parrish MOI ¶¶ 28, 33-34. Short established MichelePAC at Bachmann’s direction and was “in charge” of MichelePAC during all relevant times. Bachmann MOI ¶¶ 4-5; Parrish MOI ¶¶ 26-27. According to Bachmann, Short was responsible for approving non-contribution disbursements made by MichelePAC as well as the hiring and firing of employees or consultants. Bachmann MOI ¶¶ 7-8. Short was also responsible for setting up his own consulting agreement, negotiating his own compensation arrangements, supervising his own work, and reviewing and approving the payment of invoices, including invoices from or payments to his own firm, C&M. *Id.* ¶¶ 9-13, 36; Parrish MOI ¶¶ 29, 33-34.

1 limitation imposed on contributions and expenditures under this section.”²³ To our knowledge,
2 the Commission has never imposed section 30116(f) liability on an “officer or employee” of a
3 committee unless the “officer or employee” was the candidate who was benefiting from the
4 contributions.²⁴

5 Accordingly, the Commission finds no reason to believe Short²⁵ violated 52 U.S.C.
6 § 30116(f) (formerly 2 U.S.C. § 441a(f)) by knowingly accepting an excessive in-kind
7 contribution made for the benefit or use of a candidate.

²³ 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f)). *See* Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 1, n.8 (section 30116(f) “specifically impose[s] obligations on committees and committee officers and candidates”).

²⁴ *See, e.g.*, Certification, MUR 5908 (Peace Through Strength PAC) (Jan. 30, 2009) (finding RTB that presidential candidate Duncan Hunter violated section 30116(f) by accepting excessive contributions during “testing the waters” period and prior to filing Statement of Candidacy); Factual and Legal Analysis at 8, MUR 5783 (Green Party of Luzerne County, PA and Carl Romanelli for U.S. Senate) (June 18, 2007) (candidate Romanelli violated section 30116(f) “because the candidate appears to have solicited and accepted contributions to [a county party committee] that were used for ballot qualification efforts on his behalf”); Certification, MUR 5685 (Joe Turnham for Congress) (Nov. 4, 2005) (finding RTB that candidate violated section 30116(f) by receiving excessive contributions on behalf of his committee); *see also* 52 U.S.C. § 30102(e)(2) (formerly 2 U.S.C. § 432(e)(2)) (candidate considered agent of the authorized committee of such candidate for purposes of receiving contributions and or loans and making disbursements in connection with campaign).

²⁵ Although the Complaint identifies Short’s firm, C&M, as a respondent, it does not describe a violation of the Act by C&M.